

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

No. 1:19-CR-10080-NMG

GREGORY COLBURN et al.,

Defendants

MOTION FOR PROTECTIVE ORDER FOR TRIAL

Defendants respectfully request that the Court enter a protective order in the form of the attached Exhibit A to protect the identity of non-party college applicants and non-party college students (other than the children of Defendants and indicted co-conspirators) whose identities were disclosed in documents produced by USC and Georgetown. As grounds, Defendants state as follows:

1. A significant number of documents produced by USC and Georgetown, either in response to grand jury subpoenas or Rule 17(c) subpoenas, contain the names of college students and college applicants who are not the children of Defendants or indicted co-conspirators (collectively the “Non-Party Students”). Many of these documents are on both the government’s exhibit list and the Defendants’ exhibit lists.

There is no need for any record from USC or Georgetown containing the actual names of Non-Party Students to be used at trial.

2. A similar issue arose earlier in this case in litigation between USC and Defendant Zangrillo regarding the responses to his Rule 17(c) subpoena. USC sought to redact the personal information of applicants referenced in the subpoenaed documents and

Defendant Zangrillo objected. On April 8, 2020, the Court issued an Order at Dkt. 1067 resolving the matter. The Court held that:

Pseudonyms may be submitted for individual student names.... The applicants who are referred to in the documents provided by USC may be assigned alphanumeric identifiers. All student applicants will retain the same identifiers across documents so that defendant Zangrillo will be able to track the process with respect to each applicant. For instance, applicant John Doe may be referred to as "S-149" in all documents in which his name appears. If his parents are referred to in the same document or elsewhere, they would be referred to as "S-149's" mother or father. Consistent with this ruling, USC will also be allowed to redact the street address and other specific identifying information of those anonymous student applicants, but all other biographical, academic and supplementary information will not be redacted.

3. Defendants respectfully submit that the same protocol should apply to documents produced by USC and Georgetown to be introduced at trial as Exhibits. Consistent with the Court's April 8, 2020 Order, the proposed Protective Order attached as Exhibit A requires the redaction of the following information regarding the Non-Party Students in such documents: name, street address, email address, phone number, social security number, parents' names, names of parents' employers, and date of birth.
4. Defendants expect that several Non-Party Students will seek to intervene in the instant criminal action and seek a more comprehensive protective order. There have been several discussions and hearings regarding this issue. Defendants respectfully submit that the Protective Order attached hereto as Exhibit A is consistent with the Court's previous Order (Dkt. 1067), and that any further restrictions will be unduly burdensome and time-consuming for both the parties and the Court, may cause juror confusion, and may ultimately prove unworkable. Defendants have been unable to come to any agreement with counsel for several Non-Party Students regarding the

contents of a protective order. Defendants submit that the proceedings should not be derailed by non-parties. This is a federal criminal trial at which Defendants' liberty is at stake; not a civil discovery dispute.

5. To the extent the Court and attorneys for the Non-Party Students are concerned with the confidentiality of the Non-Party Students' identities, Defendants note that during the approximately thirty months that this case has been pending, there have been zero disclosures or leaks of any Non-Party Student information despite the fact that both Defendants and the government have access to hundreds of thousands of documents containing the personal information of Non-Party Students.

WHEREFORE, the Defendants respectfully request that the Court enter a protective order in the form of the attached Exhibit A.

Dated: August 5, 2021

Respectfully submitted,

/s/ Brian T. Kelly

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on August 5, 2021, and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing.

/s/ Joshua C. Sharp

Joshua C. Sharp